

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Mani LLC)
 a/k/a Days Inn & Royal Extended Stay) Blount County
 Map 26, Parcel 33.00)
 Commercial Property)
 Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,345,400	\$1,519,900	\$2,865,300	\$1,146,120

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on December 13, 2006 in Maryville, Tennessee. In attendance at the hearing were Pete Patel, Mike Morton, Blount Property Assessor, and staff appraiser David Easter.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 9.6 acre tract improved with a Days Inn and Royal Extended Stay. Subject property is located near the Knoxville Airport at 2962 Alcoa Highway in Alcoa.

The taxpayer contended that subject property should be valued at approximately \$2,200,000. In support of this position, Mr. Patel testified that subject property was bought out of bankruptcy in 1998 for \$1,625,000 and subsequently had approximately \$500,000 worth of renovations.

The taxpayer introduced copies of recent operating statements in support of his contention that subject property does not generate sufficient income to support the current appraised value. Moreover, Mr. Patel testified that he is in danger of losing the Days Inn flag after failing an inspection. According to Mr. Patel, significant expenditures will be necessary to rectify the problems.

The assessor contended that subject property should be valued at a minimum of \$2,865,300. In support of this position, three improved and three vacant land sales were introduced into evidence. Mr. Easter testified that he did not utilize the income approach because of conflicting income and expense information received from the taxpayer's representative.

The assessor also introduced a copy of a listing indicating subject property is currently being offered for sale at \$7,400,000. Mr. Patel confirmed the listing and added

that the Days Inn and Royal Extended Stay are also for sale individually with asking prices of \$5,000,000 and \$2,400,000 respectively.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

In view of the definition of market value, the income-producing nature of the subject property and the age of subject property, generally accepted appraising principles would indicate that the market and income approaches have greater relevance and should normally be given greater weight than the cost approach in the correlation of value indicators.

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$2,865,300 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Blount County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

Respectively, the administrative judge finds that the taxpayer did not introduce an income, sales comparison or cost approach into evidence. The administrative judge finds that the operating history of subject property is certainly relevant and constitutes a reasonable starting point. However, the administrative judge finds that such data standing by itself does not constitute sufficient evidence to allow one to arrive at a conclusion of

value. The administrative judge finds that the procedure typically utilized in the income comparison approach has been summarized in one authoritative text as follows:

Although there are various income capitalization techniques available to the appraiser, certain steps are essential in applying the income capitalization approach. Before applying any capitalization techniques, an appraiser must work down from potential gross income to net operating income. To do this, the appraiser will:

1. Research the income and expense data for the subject property and comparables.
2. Estimate the potential gross income of the property by adding the rental income and any other potential income.
3. Estimate the vacancy and collection loss.
4. Subtract vacancy and collection loss from total potential gross income to arrive at the effective gross income of the subject property.
5. Estimate the total operating expenses for the subject by adding fixed expenses, variable expenses, and a replacement allowance (where applicable).
6. Subtract the estimate of total operating expenses from the estimate of effective gross income to arrive at a net operating income.
7. Apply one of the direct or yield capitalization techniques to this data to generate an estimate of value via the income capitalization approach.

Appraisal Institute, *The Appraisal of Real Estate* at 493-94 (12th ed. 2001).

The administrative judge recognizes that unanswered asking prices do not establish value. However, the administrative judge finds it exceedingly difficult to reconcile the taxpayer's contention of value with the listing of subject property.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,345,400	\$1,519,900	\$2,865,300	\$1,146,120

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:


1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”**

Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 4th day of January, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Jay Patel
Mr. Pete Patel
Mike Morton, Assessor of Property